

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

TATYANA LYSYY, *et al.*,

Plaintiffs,

v.

DEUTSCHE BANK NATIONAL TRUST  
COMPANY, *et al.*,

Defendants.

Case No. C24-62-JLR

ORDER

Based on a joint request by Plaintiffs Tatyana Lysyy and Vasiliy Lysyy (together, “Plaintiffs”) and Defendants Deutsche Bank National Trust Company, Select Portfolio Servicing, Inc., Safeguard Properties Management, LLC, and Residential RealEstate Review, Inc. (collectively, “Defendants”), the Honorable James L. Robart referred this matter to the undersigned for purposes of conducting a settlement conference. (Dkt. ## 101-02.)

This Court ordered the parties to appear on May 7, 2025, at 9:30 a.m., for the settlement conference. (Order (dkt. # 103 as amended; *see* dkt. at Apr. 22, 2025).) While Defendants, their counsel, and Plaintiffs’ counsel appeared as ordered, neither of the Plaintiffs appeared. (Dkt. # 111.) The undersigned is aware that Plaintiffs’ counsel made repeated attempts to convince the Plaintiffs to attend the hearing to no avail. As a result, the Court set a hearing to determine

1 whether Plaintiffs should be held in civil contempt. (*Id.*) The hearing is scheduled for May 22,  
2 2025, at 9:00 a.m. The Court initiates contempt proceedings reluctantly. Given Plaintiffs'  
3 conduct in this case, however, the integrity of these judicial proceedings requires Plaintiffs to  
4 appear in court to make their case as to why they should not be held in contempt.

5 Extensive preparation is required prior to a settlement conference and the Court sets aside  
6 a day and a half to prepare for and conduct the settlement conference. In preparation, the Court  
7 issued a scheduling order ordering the parties to exchange settlement demands and submit  
8 confidential letters to this Court.<sup>1</sup> (*See* Order at 2-4). The parties were further required to prepare  
9 draft settlement agreements to bring to the conference. (*Id.* at 5.) In addition, this Court  
10 conducted separate preliminary phone calls with Plaintiffs' and Defendants' counsel the day  
11 before the settlement conference. During the preliminary calls, it was brought to the Court's  
12 attention that Plaintiffs may benefit from a Ukrainian interpreter. Defendants agreed to provide a  
13 Ukrainian interpreter, at their expense, for Plaintiffs during the settlement conference in the  
14 hopes that an interpreter would help the Court settle this matter. In short, the Court, Plaintiffs'  
15 counsel, and Defendants and their counsel have committed significant time, expense, and effort  
16 to participate in the settlement conference. Plaintiffs' failure to participate was disrespectful to  
17 all who were in attendance at the conference.

18 This Court notes that, earlier in this case, sanctions were imposed on Plaintiffs for failure  
19 to attend their depositions. Plaintiffs' counsel agreed to depositions set for July 18, 2024. (Dkt.  
20 # 83 at 2.) Defendants had reserved a court reporter and two certified Ukrainian interpreters. (*Id.*)  
21 Mr. Lysy called Plaintiffs' counsel less than an hour prior to his scheduled deposition and stated  
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23 <sup>1</sup> Plaintiffs' confidential letter was submitted to this Court a day late and only after the Court issued an  
Order to Show Cause as to whether the settlement conference should be cancelled due to the failure to  
submit materials in advance of the conference.

1 he would not appear due to an unspecified family emergency. (*Id.*) Ms. Lysy did not respond to  
2 counsel's inquiries as to whether she would appear for her deposition scheduled for later in the  
3 day. (*Id.*) Pursuant to Federal Rule of Civil Procedure 37(d), the Court granted Defendants'  
4 request for an order compelling Plaintiffs to attend depositions and ordered Plaintiffs to pay  
5 Defendants \$4,500.00 in attorneys' fees and costs. (*Id.* at 6-7.) The Court warned Plaintiffs that if  
6 they failed to appear for their rescheduled depositions, the Court would dismiss their claims with  
7 prejudice. (*Id.* at 6.)

8 A district court has the inherent authority to enforce compliance with its orders through  
9 civil contempt proceedings. *Toyo Tire & Rubber Co. v. Hong Kong Tri-Ace Tire Co.*, 281 F.  
10 Supp. 3d 967, 984 (C.D. Cal. 2017) (citing *Int'l Union, United Mine Workers of Am. v. Bagwell*,  
11 512 U.S. 821, 827-28 (1994)). "Civil contempt . . . consists of a party's disobedience to a  
12 specific and definite court order by failure to take all reasonable steps within the party's power to  
13 comply." *Inst. of Cetacean Research v. Sea Shepherd Conservation Soc'y*, 774 F.3d 935, 945  
14 (9th Cir. 2014) (quoting *In re Dual-Deck Video Cassette Recorder Antitrust Litig.*, 10 F.3d 693,  
15 695 (9th Cir. 1993)). "But a person should not be held in contempt if his action appears to be  
16 based on a good faith and reasonable interpretation of the court's order." *In re Dual-Deck*, 10  
17 F.3d at 695 (cleaned up). Civil contempt must be established by clear and convincing evidence.  
18 *Id.* In short, civil contempt sanctions may be imposed if the Court "determine[s] (1) that [the  
19 contemnor] violated the court order, (2) beyond substantial compliance, (3) not based on a good  
20 faith and reasonable interpretation of the order, (4) by clear and convincing evidence." *Id.*

21 Sanctions for civil contempt may be imposed to coerce obedience to a court order, or to  
22 compensate a party injured by the contemptuous behavior, or both. *Gen. Signal Corp. v.*  
23 *Donallco, Inc.*, 787 F.2d 1376, 1380 (9th Cir. 1986). Accordingly, if civil contempt is established

1 here, sanctions may include imprisonment and prospective conditional fines to induce  
2 compliance with court orders, and fines to reimburse damages, including attorney's fees, caused  
3 by violation of the Order. *See BBC Grp. NV LLC v. Island Life Rest. Grp. LLC*, 475 F. Supp. 3d  
4 1235, 1241-42 (W.D. Wash. 2020) (“[T]rial courts have ‘discretion to analyze each contempt  
5 case individually and decide whether an award of fees and expenses is appropriate as a remedial  
6 measure.’”) (quoting *Perry v. O'Donnell*, 759 F.2d 702, 705 (9th Cir. 1985)); *Gen. Signal Corp.*,  
7 787 F.2d at 1380 (contempt sanctions may include attorneys' fees only if “caused by” violation  
8 of the court order).

9 Because civil contempt can result in imprisonment, Plaintiffs have a right to counsel for  
10 the contempt hearing. If Plaintiffs notify the Court by **May 14, 2025**, that they desire an attorney  
11 but cannot afford one, counsel will be appointed. Counsel will be appointed for a limited  
12 representation relating solely to the contempt proceeding.

13 Plaintiffs will have the opportunity to present witnesses at the hearing, however,  
14 testimony must be provided by live witnesses, not by affidavit. The Federal Rules of Evidence  
15 govern contempt proceedings. Fed. R. Evid. 1101(b).

16 The Clerk is directed to send copies of this order to the parties and to Judge Robart.

17 Dated this 8th day of May, 2025.

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19 MICHELLE L. PETERSON  
20 United States Magistrate Judge  
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